

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**February 28, 2001**

## DIVISION ONE

B142845      Los Angeles County, D.C.F.S.      (Not for Publication)  
v.  
Elizabeth L.

The order is affirmed.

Spencer, P.J.

We concur: Ortega, J.  
Mallano, J.

B140991 People (Not for Publication)  
v.  
Jose R.

The order is affirmed.

Spencer, P.J.

We concur: Ortega, J.  
Vogel (Miriam A.), J.

B142631      Los Angeles County, D.C.F.S.      (Not for Publication)  
v.  
Melissa M.

The orders are affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.  
Mallano, J.

DIVISION ONE (Continued)

B140639 Congress of California Seniors et al. (Certified for Publication)  
v.  
Catholic Healthcare West et al.

The judgment is affirmed. The appeal from the protective order is dismissed as moot. CHW is awarded its costs of appeal.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.  
Mallano, J.

B142118 People (Not for Publication)  
v.  
Mora

The judgment is reversed insofar as it awards victim restitution. The trial court is directed to enter a new and different judgment awarding restitution of \$97,500 directly to the victim. In all other respects, the judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.  
Mallano, J.

B142152 People  
v.  
Valdez et al.

Filed order modifying opinion. (No change in the judgment)

B139845 People  
v.  
Hough

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

DIVISION ONE (Continued)

B141290 Rodas etc.  
v.  
Spiegel et al.

Filed order modifying opinion & certifying opinion for publication.  
(No change in the judgment)

B123192 FN Development Co. (Not for Publication)  
v.  
Paramar Partners et al.

The June 9, 1998 final judgment is reversed as to plaintiffs' third cause of action. The trial court is further directed to modify the June 9, 1998 final judgment to reflect accurately the jury's verdict as to the various parties. In all other respects, the judgments and orders appealed from are affirmed. The parties are to bear their own costs on appeal.

Spencer, P.J.

We concur: Ortega, J.  
Mallano, J.

B136958 Marquay (Not for Publication)  
v.  
Kornfeld

The judgment is affirmed. Respondent(s) to recover costs.

Mallano, J.

We concur: Spencer, P.J.  
Vogel (Miriam A.), J.

February 28, 2001-Continued

## DIVISION ONE (Continued)

B138284      Lallas      (Not for Publication)  
v.  
Lallas

The order appealed is affirmed. Respondent to recover costs.

Mallano, J.

We concur: Spencer, P.J.  
Vogel (Miriam A.), J.

B141128 People (Not for Publication)  
v.  
Pedro M.

The order of wardship is affirmed.

Mallano, J.

We concur: Spencer, P.J.  
Ortega, J.

DIVISION TWO

[illegible]

The judgment is reversed.

Cooper, J.

We concur:   Boren, P.J.  
                      Nott, J.

## DIVISION TWO (Continued)

B140355 People (Not for Publication)  
v.  
Brown

The part of the judgment imposing an additional sentence for the prior strike conviction allegation and the prior prison term allegations is reversed and the case is remanded for trial on the limited issue of whether appellant suffered those convictions and for resentencing, if necessary. The \$140 penalty assessments are vacated and the trial court is directed to ament the abstract of judgment and forward a copy of the amended abstract of judgment to the Department of Corrections.

Cooper, J.

We concur:   Boren, P.J.  
                      Todd, J.

B138017 People (Not for Publication)  
v.  
Burke

The judgment is affirmed.

Cooper, J.

We concur:   Boren, P.J.  
                      Nott, J.

B139377      Los Angeles County, D.C.F.S.      (Not for Publication)  
v.  
Glen J.

The order terminating parental rights is affirmed.

Cooper, J.

We concur:   Nott, Acting P.J.  
                      Todd, J.

## DIVISION TWO (Continued)

[illegible]

The cause is remanded to the juvenile court for (1) an express declaration pursuant to section 702 and possible recalculation of appellant's maximum period of physical confinement, and (2) modification of the adjudication/disposition order to award appellant 23 days of precommitment custody credits. In all other respects, the order declaring appellant to be a ward of the juvenile court and ordering his placement in the camp-community placement program is affirmed.

Cooper, J.

We concur:   Boren, P.J.  
                      Nott, J.

B132216 People (Not for Publication)  
v.  
Gonzales

The judgment is affirmed.

Cooper, J.

We concur:   Boren, P.J.  
                      Nott, J.

B141363      Los Angeles County, D.C.F.S.      (Not for Publication)  
v.  
Elden C.

The order terminating parental rights is affirmed.

Cooper, J.

We concur:   Boren, P.J.  
                      Nott, J.

### DIVISION THREE

B135854      Gina Tucci  
v.  
Club Mediterranee, S.A., et al.

Filed order vacating submission order of November 17, 2000 due to press of other court business and the complexity of the issues in this case. Cause resubmitted.

B136447 People (Not for Publication)  
v.  
Corral et al.

The judgments are modified to strike the two-year gang enhancements as to counts one and two (Moreno) and counts one, two, and four (Corral). The abstracts of judgment shall be corrected to reflect that defendants cannot be considered for parole for a minimum of 15 years. As modified, the judgments are affirmed.

Klein, P.J.

We concur:   Kitching, J.  
                      Aldrich, J.

B139169 People (Not for Publication)  
v.  
Maya

The judgment is affirmed.

Klein, P.J.

We concur:   Kitching, J.  
                      Aldrich, J.

### DIVISION THREE (Continued)

B128860      People                                (Not for Publication)  
v.  
**Simmons**

The judgment is affirmed.

Klein, P.J.

We concur:   Kitching, J.  
                      Aldrich, J.

B130397 County of Los Angeles (Not for Publication)  
v.  
Larry B. Charles

The judgment is reversed and the case is remanded to the trial court to conduct a new hearing to: (1) reconsider this reimbursement matter under section 11350; (2) admit all relevant and admissible evidence related to Armenia R.'s alleged fraud in obtaining aid for a child not in her care, and for whom she may not have been providing support herself; (3) consider all such evidence and make any determination based on all the evidence admitted, including evidence of fraud; (4) advise Charles of his right to subpoena any relevant evidence, including the Monthly Eligibility Reports and any witnesses, including paternal grandmother any other witnesses whom were aware of the child's living circumstances; and (5) continued the trial for a reasonable amount of time to allow Father to obtain such evidence. Charles to recover costs on appeal.

Kitching, J.

We concur:   Croskey, Acting P.J.  
                  Aldrich, J.



DIVISION THREE (Continued)

B132453      E.P. Investments                      (Not for Publication)  
                 v.  
                 Joseph Lubinsky Romeo

The judgment is affirmed. Respondent(s) to recover costs.

Kitching, J.

We concur:    Croskey, Acting P.J.  
                 Fidler, J. (Assigned)

B139854      Irma Navarro                              (Not for Publication)  
                 v.  
                 Florence G. Hernandez

The judgment is affirmed. Respondent(s) to recover costs.

Kitching, J.

We concur:    Croskey, Acting P.J.  
                 Aldrich, J.

B140065      Emday, Inc., et al.                      (Not for Publication)  
                 v.  
                 County of Los Angeles

The judgment is affirmed. Costs on appeal awarded to plaintiff Emday, Inc.

Kitching, Acting P.J.

We concur:    Aldrich, J.  
                 Fidler, J. (Assigned)

DIVISION THREE (Continued)

B138845      Minor Roe, etc.                      (Not for Publication)  
                 v.  
                 Vango Incorporated

The judgment is reversed, and the matter is remanded to the trial court for further proceedings on Roe's negligence cause of action against Vango. Costs on appeal are awarded in favor of plaintiff Roe.

Kitching, J.

We concur:    Croskey, Acting P.J.  
                 Fidler, J. (Assigned)

B134627      Mikhail Sedler                      (Not for Publication)  
                 v.  
                 Board of Dental Examiners

The judgment is affirmed. Respondent(s) to recover costs.

Kitching, J.

We concur:    Croskey, Acting P.J.  
                 Aldrich, J.

B133190      People  
                 v.  
                 Anderson

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

DIVISION THREE (Continued)

B135435      Partev Ananyan, etc., et al.                      (Not for Publication)  
                 v.  
                 Wells Fargo Bank

The judgment is affirmed. Respondent(s) to recover costs.

Croskey, J.

We concur:   Klein, P.J.  
                 Kitching, J.

B143841      Glenn Hightower  
                 v.  
                 Superior Court Los Angeles County  
                 Daniel O'Dowd

Filed order modifying opinion. (No change in the judgment)

B143841      Glenn Hightower  
                 v.  
                 Superior Court, Los Angeles County  
                 (Daniel O'Dowd, r.p.i.)

Filed order denying petition for rehearing.

B135457      People    (Not for Publication)  
                 v.  
                 Bacon

The judgment is affirmed.

Croskey, Acting P.J.

We concur:   Kitching, J.  
                 Aldrich, J.

February 28, 2001-Continued

### DIVISION THREE (Continued)

B141263 People (Not for Publication)  
v.  
Medina

The judgment is affirmed.

Croskey, J.

We concur: Klein, P.J.  
Fidler, J. (Assigned)

B137721      Phylis Weatherspoon et al.      (Not for Publication)  
v.  
H. Stanley Jones et al.

The order from which plaintiff has appealed is reversed and the cause is remanded for further proceedings consistent with the views expressed herein. Costs on appeal to plaintiff.

Croskey, J.

We concur: Klein, P.J.  
Aldrich, J.

DIVISION FOUR

B133232 William R. Lundy (Certified for Publication)  
v.  
Ford Motor Company et al.

The judgment is reversed. Defendants are to have their costs on appeal.

Epstein, J.

We concur: Vogel (C.S.), P.J.  
Hastings, J.

DIVISION FIVE

B140766 People (Not for Publication)  
v.  
Smith

The judgment is affirmed.

Turner, P.J.

We concur:    Armstrong, J.  
                          Godoy Perez, J.

B139655 People (Not for Publication)  
v.  
Carroll

The judgment is modified to impose penalty assessments of \$50 pursuant to Penal Code section 1464, and \$35 as required by Government Code section 76000. The clerk of the superior court is directed to prepare and deliver to the Department of Corrections an amended abstract of judgment which accurately sets forth the restitution fines imposed against defendant pursuant to Penal Code sections 1202.4, subdivision (b), and 1202.45, the laboratory analysis fee, and the penalty assessments imposed pursuant to Penal Code section 1464 and Government Code section 76000 as set forth above. The cause is remanded to allow the trial court, if it legally can, to set forth in the minutes the reasons for its exercise of discretion in striking defendant's five prior felony convictions and proceed as described in this opinion. The judgment is affirmed in all other respects.

Turner, P.J.

I concur:	Grignon, J.
I concur in the result	Godoy Perez, J.

February 28, 2001-Continued

## DIVISION FIVE (Continued)

B141433 People (Not for Publication)  
v.  
Larry M.

The wardship order is affirmed.

Turner, P.J.

We concur:    Armstrong, J.  
                          Godoy Perez, J.

B139331      Mary Asta      (Not for Publication)  
v.  
Alamo Rent-A-Car, Inc., et al.

The judgment is reversed. Appellant to recover costs.

Armstrong, J.

We concur: Grignon, Acting P.J.  
Godoy Perez, J.

B141784 Phoenix Healthcare Consulting  
v.  
Jehan Mir

The letter filed February 7, 2001, is deemed to be a rehearing petition. It is denied.

DIVISION SIX

B138302 Buena Vista Mines, Inc., et al. (Certified for Publication)  
v.  
Industrial Indemnity Company et al.

The judgment is affirmed. Costs are awarded to respondents.

Coffee, J.

We concur: Gilbert, P.J.  
Perren, J.

B141004 People (Not for Publication)  
v.  
Stewart

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, P.J.  
Perren, J.

B144271 People (Not for Publication)  
v.  
Jones

The judgment is affirmed.

Coffee, J.

We concur: Yegan, Acting P.J.  
Perren, J.

February 28, 2001-Continued

## DIVISION SIX (Continued)

[illegible]

The judgment is affirmed.

Coffee, J.

We concur: Yegan, Acting P.J.  
Perren, J.

## DIVISION SEVEN

B126144      Loren Tallmadge, a Minor, etc., et al.      (Not for Publication)  
v.  
Walter David Tallmadge

The judgment is reversed as to the award of punitive damages and the cause is remanded for retrial on the issue of the amount of punitive damages consistent with the views expressed in this opinion. The judgment is reversed as to the injunctive relief awarded plaintiffs. In all other respects the judgment is affirmed. The parties shall bear their own costs on appeal.

Johnson, Acting P.J.

We concur: Woods, J.  
Neal, J.

B135142 J. Barton Demontford et al. (Not for Publication)  
v.  
Calamigos Ranch et al.

The judgment of the trial court is affirmed. Respondents are entitled to recover their costs on appeal.

Johnson, Acting P.J.

We concur: Woods, J.  
Neal, J.



February 28, 2001-Continued

## DIVISION SEVEN (Continued)

B138479 People (Not for Publication)  
v.  
Stovall et al.

The judgment is affirmed.

Neal, J.

I concur: Woods, J.  
I concur and dissent: Johnson, Acting P.J. (Opinion)

B134484 People (Not for Publication)  
v.  
Juan R.

The appeal is dismissed.

Neal, J.

We concur: Lillie, P.J.  
Woods, J.

B141019 Hamner v. Ross et al.

(Not for Publication)

The orders sustaining demurrers, without leave to amend, to the Third Cause of Action for Fraud and Deceit, and to the portion of the Fifth Cause of Action related to “Usury,” are affirmed. The order of the trial court is reversed insofar as it precludes filing of an amended complaint alleging a cause of action for violation of Business and Professions Code section 17200, and the matter is remanded to permit Hamner an opportunity to properly plead such a claim. The parties shall bear their own costs on appeal.

Neal, J.

We concur: Lillie, P.J.  
Woods, J.

DIVISION SEVEN (Continued)

B130572     Hervatin  
              v.  
              Knickerbocker

Filed order denying petition for rehearing.